

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Burton & McPherson Analyst: Marion Mann DeJong Bill Number: SCA 1

Related Bills: See Prior Analysis Telephone: 845-6979 Amended Date: 02/07/2003

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Access to Government Information

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED
December 2, 2002, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This is a proposal that would place a constitutional amendment on the ballot concerning the people's rights to access public information.

SUMMARY OF AMENDMENT

The February 7, 2003, amendments deleted most of the text of the bill and replaced it with language that maintains the author's original goal of giving people the right to access public information. These amendments resolved the department's implementation concerns discussed in the analysis of SCA 1 as introduced December 2, 2002. The discussions of "This Constitutional Amendment" and "Implementation Considerations" from the department's prior analysis are replaced with the information below. The remainder of the department's analysis of SCA 1 as introduced December 2, 2002, still applies. The Board's Position remains pending.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director
Brian Putler

Date
3/5/03

THIS CONSTITUTIONAL AMENDMENT

This proposal would place a constitutional amendment on the ballot concerning the people's rights to access public information. Specifically, this measure would:

- Specify that the people have a right to access information concerning the conduct of the people's business.
- Provide that meetings of public bodies and writings of public officials and agencies shall be open to public scrutiny.
- Specify that the right of access to information shall be effectuated whenever it does not harm any investigation by a law enforcement agency or an overriding public or private interest.
- Provide that any statute, court rule, or other authority, including those in effect on the effective date of this constitutional amendment, shall be broadly construed if it effectuates the people's right of access, and narrowly construed if it limits the right of access.
- Provide that a statute, court rule, or other authority adopted after the effective date of this constitutional amendment that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.
- Provide that this constitutional amendment may not be construed to supersede or modify the right to privacy guaranteed by the California Constitution. In addition, the constitutional amendment would not affect the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy.

IMPLEMENTATION CONSIDERATIONS

Implementing this proposal should not significantly impact the department's programs and operations. However, department staff is concerned about the term "overriding public or private interest." The proposal does not specify who would make the determination that the right of access harms an overriding public or private interest. This could cause disputes between people seeking access to information and the department. Further, while the proposal suggests that current statutes limiting access would not be deemed unconstitutional but would be narrowly construed, it is unclear whether all of the limitations to disclosure that are currently codified (e.g., the exclusions under the Information Practices Act) would be considered "overriding public or private interest."

LEGISLATIVE STAFF CONTACT

Marion Mann DeJong
Franchise Tax Board
845-6979
marion.dejong@ftb.ca.gov

Brian Putler
Franchise Tax Board
845-6333
brian.putler@ftb.ca.gov